

Salt Lake County Health Department

Health Regulation

#6

SYRINGE EXCHANGE PROGRAMS

Adopted by the Salt Lake County Board of Health

Date ***, 2017**

Under Authority of

Utah Code Ann. Section 26A-1-114

1. PURPOSE & APPLICABILITY OF REGULATION

- 1.1. The purpose of this regulation is to protect and to promote public health, safety, and welfare of residents by establishing practices and provisions for syringe exchange programs (SEP) in Salt Lake County, to prevent transmissions of bloodborne pathogens, including Human Immunodeficiency Virus (HIV), Hepatitis B Virus (HBV), Hepatitis C Virus (HCV), and reduce morbidity and mortality among individuals who inject drugs.
- 1.2. Requirements for SEP are consistent with and support all applicable state rules and laws.
- 1.3. This regulation is adopted under the authority of the Salt Lake County Board of Health in accordance with Section 26A-1-121 of the Utah Code Annotated.

2. DEFINITIONS

For the purposes of this Regulation, the following terms, phrases, and words shall have the meanings herein expressed:

- 2.1. “Board” shall mean the Salt Lake County Board of Health.
- 2.2. “Department” shall mean the Salt Lake County Health Department.
- 2.3. “Director” shall mean the Director of the Salt Lake County Health Department or his or her designated representative.
- 2.4. “Identification card” shall mean a card issued by a SEP to a SEP participant to demonstrate to law enforcement officials the purpose for having syringes in their possession. Identification cards shall be designed in such a way as to maintain the confidentiality of program participants using non-identifiable information the participant can easily recall.
- 2.5. “One-for-one exchange” shall mean an exchange model which provides SEP participants with the exact same number of sterile syringes that the participant brings for disposal.
- 2.6. “One-for-one plus exchange” shall mean an exchange model which provides SEP participants 10 extra sterile syringes above the number participant brings for disposal syringes.
- 2.7. "Operating entity" as generally described in Utah Code Ann. § 26-7-8.
- 2.8. “Person” shall mean any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institution, bureau, agency, municipal corporation, county, city, political subdivision, or any legal entity recognized by law.
- 2.9. “Starter Kit” shall mean a one-time kit provided by an SEP to participants enrolling in a program that contains no more than 10 sterile syringes.

2.10. “Syringe exchange program” or SEP as generally described in Utah Code Ann. § 26-7-8.

3. **GENERAL PROVISIONS**

3.1. **Jurisdiction of the Department.**

3.1.1. This Regulation is promulgated by the Salt Lake County Board of Health as authorized by Utah Code Ann. § 26A-1-121(1), and Chapter 9.04, Salt Lake County Code of Ordinances.

3.1.2. The Department is empowered to enforce this Regulation in all incorporated and unincorporated areas served by the Department as authorized by Utah Code Ann. § 26A-1-114(1) (a), and Chapter 9.04, Salt Lake County Code of Ordinances.

3.2. Except as otherwise provided for, it shall be unlawful for any person not to comply with any regulation promulgated by the Department unless granted an express variance by the Salt Lake County Board of Health.

3.3. Compliance with this Regulation does not constitute a defense if charged with any environmental crime or violation of any local, state, or federal law.

3.4. Legal action taken by the Department under this Regulation does not preclude prosecution for any environmental crime that may have been committed or violation of any other local, state, or federal law.

3.5. Nothing in this Regulation affects or modifies in any way the obligations or liability of any person under any other Regulation or provision thereof issued by the Department, any ordinance issued by Salt Lake County or any municipality located within Salt Lake County, or any state or federally issued law, including common law. However, Departmental Regulations supersede other existing local and county standards, regulations, and ordinances pertaining to similar subject matter that are inconsistent.

3.6. **Severance.** If any section, subsection, sentence, clause, or phrase of this Regulation is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Regulation.

3.7. **Prohibited Acts.** Except as allowed pursuant to this Regulation it shall be unlawful for any person:

3.7.1. To provide syringes as part of an SEP without the approval of the Department and in violation of Utah Administrative Code R386-900.

4. **SUBSTANTIVE PROVISIONS**

4.1. **Operating Requirements**

4.1.1. **Enrollment Required.**

- (i) No operating entity shall conduct a syringe exchange program without enrolling with the Utah Department of Health (UDOH) as required by Utah Administrative Rule 386-900-4(1).
- (ii) All operating entities conducting a syringe exchange program shall comply with the operating and reporting requirements outlined in Utah Administrative Rule R386-900.

4.1.2. **Notice and Filing Requirements.**

- (i) The operating entity shall notify the Department, in writing, of enrollment with UDOH.
- (ii) The operating entity shall submit to the Department a copy of the safety protocol submitted to UDOH.
- (iii) The operating entity shall submit to the Department the disposal plan submitted to UDOH

4.1.3. **Operating Requirements.**

- (i) The operating entity shall implement a one-for-one or a one-for-one plus exchange model. The operating entity may provide a starter kit with 10 extra syringes.
- (ii) The operating entity shall provide only clean syringes and injection site sanitizing material to SEP participants.
- (iii) An operating entity shall not provide drug paraphernalia to SEP participants.
- (iv) The operating entity shall provide identification cards to SEP participants that can be produced to document to law enforcement the reason for having syringes in their possession.

4.1.4. **Plans and Specifications.** The following plans and specifications shall be submitted to the Department for review and approval.

- (i) The operating entity shall submit a plan to the Department that demonstrates efforts to reach diverse populations within Salt Lake County.

4.1.5. **Other.**

- (i) If more than one operating entity is providing services in Salt Lake County the operating entities shall coordinate their efforts so syringe exchange program services are accessible in more than one geographic area in the County.

5. **INSPECTIONS & INVESTIGATIONS**

5.1. The department, by the Director, has the authority to perform inspections, investigations, reviews, and other similar actions as necessary of any public or private establishment.

5.1.1. **Regulated Commercial Premises.** Upon presenting proper identification, authorized representatives of the Department may enter upon the premises of properties regulated by the Department to perform routine inspections to insure compliance with rules, standards, regulations, and ordinances adopted by the Department, the Departments of Health & Environmental Quality, county or municipal governing bodies, or the division of Occupational and Professional Licensing.

5.1.2. **Unregulated Commercial Premises.** The Department may enter upon the premises of unregulated commercial properties upon the consent of the owner or otherwise responsible party or upon a warrant issued by a court.

5.1.3. **Private Dwellings.** Inspections of private dwellings are made by consent of owner or otherwise responsible party or upon a warrant issued by a court.

6. **ENFORCEMENT MECHANISMS.** If the Department has investigated or inspected any property or facility and believes the property owner or other responsible party is in violation of this Regulation or the Department has other reasonable grounds to believe that there has been a violation of any part of this Regulation or that the property owner or otherwise responsible party is not in compliance with this Regulation, the Department may take civil enforcement action as authorized by statute, rule, ordinance and regulation and may also refer the matter for criminal prosecution. Civil enforcement may involve court or administrative actions, injunctive actions, and closures and may involve cost recovery, penalties, and other remedies. Civil and criminal actions may be brought simultaneously. A person does not need to be first adjudged liable in a civil matter before facing criminal charges.

6.1. **Civil Enforcement Actions.**

6.1.1. The Department may request that the District Attorney bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

6.2. **Administrative Actions.**

6.2.1. The Department may, at its discretion, issue a Notice of Violation & Order of Compliance (NOV).

6.2.2. **Service of NOV.** The Department may provide notice to the owner of the property or otherwise responsible person by sending the NOV via first class mail to the last known address of the owner of the property or other responsible person. If notice is returned undeliverable, the owner of the property or other responsible person may be personally served or be given notice by other methods reasonably calculated to give actual notice to the owner or other responsible party.

6.2.3. **Contents of NOV.** The NOV shall:

- (i) Describe the property and the persons believed to be in violation;
- (ii) Describe the violation;
- (iii) Describe remedial action that will comply with the provisions of this Regulation;
- (iv) Set a reasonable time for the performance of any required remedial action(s);
- (v) Describe the procedure to contest the NOV and the time limits for such a contest; and
- (vi) Notify the owner or other responsible person that if no written contest is filed within the time required, the NOV will become final and unappealable to any administrative entity or court.

6.2.4. **Challenging an NOV.** As detailed in the Department's Adjudicative Hearing Procedures, a party aggrieved by an NOV may request a departmental conference, departmental hearing, or departmental appeal in writing within 10 days of the date of the NOV.

6.2.5. **Departmental Conference, Settlement Agreements, and Stipulations & Orders.**

- (i) After issuance of the NOV, the alleged violator has the option to request and attend a Departmental Conference to discuss the NOV and settlement with the Department and its legal counsel. No hearing officer will be present. The process of requesting a Departmental Conference are more fully described in the Department's Adjudicative Hearing Procedures.
- (ii) If the parties agree to a settlement, the Department will prepare, in conjunction with the District Attorney's Office, a binding Settlement Agreement or Stipulation & Consent Order which may require the payment of penalties and the costs of investigation. Parties may also agree to a settlement at any time subsequent to the Departmental Conference. After signing a Settlement Agreement or Stipulation & Consent Decree, the parties waive all rights to further department and court hearings or appeals. Settlement Agreements or Stipulation & Consent orders may be enforced in state courts.

6.2.6. **Hearings & Appeals.** Parties Aggrieved by an NOV may also request a Departmental Hearing or a Departmental Appeal. A hearing officer is present at these proceedings and makes a written determination. The methods of challenging an NOV are more fully described in the Department's Adjudicative Hearing Procedures. Departmental Hearing Orders and Departmental Appeal Orders may be appealed to the entities and within the time limits set out in the Department's Adjudicatory Hearing Procedures.

6.2.7. **Failing to respond to an NOV.** If a party fails to respond to an NOV within the required time, the NOV becomes a final order unappealable to any

administrative entity or court. The Department may then enforce the order in state court.

6.3. **Additional Administrative Enforcement Authority.**

6.3.1. The Department may declare unsanitary conditions a nuisance and cause every nuisance affecting the public health to be abated.

6.3.2. Any variances allowed by the Department to the requirements of this Regulation shall be only by written approval of the Board.

6.3.3. **Exercise of Physical Control.** The Department may establish, maintain, and exercise physical control over property and over individuals as the Department finds necessary for the protection of the public health including but not limited to closing theaters, schools, and other public or private places and prohibit public gatherings. The order shall be effective immediately. Any person to whom the order is directed shall comply immediately but may petition the Director for a hearing in accordance with the Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this Regulation, the Director shall continue the order in effect or modify or revoke it.

6.3.4. **Emergency Enforcement.** If the Director finds that an emergency exists that requires immediate action to protect the public health, he may without notice or hearing issue an order declaring the existence of an emergency and requiring that action be taken as he deems necessary to meet the emergency. The order shall be effective immediately. Any person to whom the order is directed shall comply and abate the nuisance immediately; but may petition the Director for a hearing in accordance with the Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this Regulation, the Director shall continue the order in effect or modify or revoke it. If circumstances warrant because of the seriousness of the hazard, the Department may act to correct or abate the emergency without issuance of an order or directive or without waiting for the expiration of compliance time previously given in an order.

7. **CIVIL & ADMINISTRATIVE PENALTIES**

7.1. **Civil & Administrative Penalties.**

7.1.1. Penalties may be included in a Settlement Agreement or Stipulation & Consent Order. Penalties may be assessed according to the following factors:

- (i) The violator's history of compliance or non-compliance;
- (ii) The violator's economic benefit of non-compliance;
- (iii) The documented costs associated with environmental or health damage;
- (iv) The violator's degree of willfulness or negligence; and

(v) The violator's good faith efforts to comply and cooperate.

7.1.2. The Director may multiply the penalty by the number of days the violation occurred

7.1.3. The Department may recover its inspection, investigative and abatement expenses and costs from owners or other responsible person.

8. **EFFECTIVE DATE**

8.1. This Regulation shall be effective upon its enactment by the Salt Lake County Board of Health.

APPROVED AND ADOPTED this _____ day of _____, 2017.

SALT LAKE COUNTY BOARD OF HEALTH

By: _____
BROOKE HASHIMOTO, Chair

ATTEST:

GARY L. EDWARDS, M.S.
Executive Director
Salt Lake County Health Department